

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :

v. : CRIMINAL NO. 19-367

JOSEPH R. JOHNSON, JR. :

MOTION TO SEAL

COMES NOW, Joe Johnson, hereinafter, "Johnson", and respectfully requests that the Court seal and impound all documents in this case, and in support thereof, he states:

1. On November 14, 2019, following a three-day jury trial, Johnson was convicted by a jury in this court of allegedly making a material false statement, and of allegedly aiding and abetting Aggravated Identity Theft. Pursuant to sentencing guidelines, Johnson was sentenced to an 8-month term of imprisonment for the conviction of allegedly making a material false statement, and a consecutive 24 month term of imprisonment for allegedly aiding and abetting Aggravated Identity Theft. Johnson, through his counsel, noticed a timely appeal to the Third Circuit Court of Appeals.

2. On November 23, 2021, in a precedential opinion, the Third Circuit reversed both of Johnson's convictions and remanded for an entry of a judgment of acquittal. *United States v. Joseph R. Johnson*, No. 20-1449, 2021 WL 5492600 (Nov. 23, 2021). In reversing, the Third Circuit held that "Johnson's behavior wasted public time and resources and distracted court officials from their work. But only Congress enjoys the authority to turn conduct into a federal crime." *Id.* Thus, the conviction and sentence in this case was invalid as no federal crime had been committed against the United States.

3. Citing *United States v. Harra*, 985 F.3d 196, 211 (3d Cir. 2021), the Third Circuit went on to hold that, “To permit Johnson’s conviction to stand, as we put it recently, “would be to endorse conviction merely for being bad - an outcome abhorrent to the tenet that, in our legal system, we convict people only of specific crimes.” “We will not do so.”

4. On December 9, 2021, the Third Circuit issued a final judgment and mandate, and on January 4, 2022, in accordance with the November 23, 2021 opinion and the December 9, 2021 judgment of the United States Court of Appeals for the Third Circuit, this Court entered a judgment of acquittal. (ECF No. 134).

5. Johnson having been declared by the Third Circuit as not having committed any offense against the United States, and recognizing his innocence of these false charges, request that this case be sealed and all documents impounded to prevent further dissemination as he will likely continue to suffer, real and permanent economic harm as a result of the invalid conviction including loss of his fundamental rights, privacy rights, employment, housing, education, and other property interests. The dangers of unwarranted adverse consequences to Johnson simply outweighs the public interest in maintenance of the records. *United States v. Friesen*, 853 F.2d 816, 817 (10th Cir. 1988); *Diamond v. United States*, 649 F.2d 496, 498 (7th Cir. 1981) (If the dangers of unwarranted adverse consequences to the individual outweigh the public interest in maintenance of the records, then expunction is appropriate.); *Paton v. La Prade*, 524 F.2d 862, 868 (3rd Cir. 1975); *United States v. Dunegan*, 251 F.3d 477 (3rd Cir. 2001).

CONCLUSION

For the reasons set-forth herein, the Court should grant this Motion.

Respectfully submitted,

Joe Johnson

Joe Johnson
Post Office Box 441572
Fort Washington, MD 20749

CERTIFICATE OF SERVICE

I, Joe Johnson, hereby certify that on March 31, 2022, I mailed and caused the foregoing Motion for Certificate of Innocence to be electronically filed which will in turn serve a copy upon Linwood C. Wright, Jr., Assistant United States Attorney, through the District Court for the Eastern District of Pennsylvania's Electronic Case Filing (NextGen CM/ECF) system.

Joe Johnson

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FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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JOSEPH R. JOHNSON, JR. :

SEALING AND IMPOUNDING ORDER

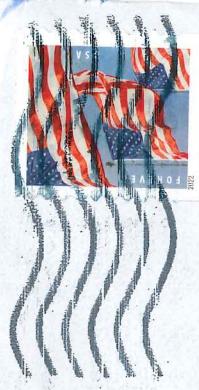
AND NOW this _____ day of _____, 2022, upon consideration of the Motion to Seal and Impound, it is hereby **ORDERED** that this case and all documents contained therein shall be **SEALED** and **IMPOUNDED**, including, but not limited to, the Motion to Seal and Impound.

BY THE COURT:

HONORABLE HARVEY BARTLE, III
Judge, United States District Court

P.O. Box 441572
Fort Washington, MD 20749

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Criminal Division
US District Court
601 Market Street
Philadelphia, PA 19106



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